



LEE
UNIVERSITY

Non-Title IX

Sexual Harassment Policy

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Section 1: Introduction

- 1.1 Policy Statement:** Lee University is committed to creating and maintaining a learning and working environment that is free from unlawful discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in education programs or activities; Title VII of the Civil Rights act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act, Clery Act, and the Violence Against Women Act (VAWA). Prohibited Conduct under this Policy will not be tolerated by Lee University and is grounds for disciplinary action, up to and including, permanent dismissal from Lee University and/or termination of employment.
- 1.2 Purpose:** Lee University takes all reported sexual misconduct and harassment seriously. Lee University will promptly discipline any individuals within its control who are found responsible for violating this Policy. Reported Prohibited Conduct that does not meet the definitions and jurisdiction of the Title IX Sexual Harassment and Non-Discrimination Policy (“Title IX Policy”), including Prohibited Conduct that occurs outside of the United States will be reviewed under this Policy.
- 1.3 Applicability:** This Policy addresses Prohibited Conduct. Prohibited Conduct includes Sexual Harassment that occurs outside the Lee University Education Program or Activity or outside the United States, Non-Title IX Sexual Harassment, and Sexual Exploitation. This Policy applies to students and employees as follows:

 - a. To Students:** Where the Respondent is a student at Lee University at the time of the alleged conduct, the alleged conduct includes Prohibited Conduct under this policy, and does not include Sexual Harassment as defined in the Title IX Policy. Supportive measures and resources will be provided where the Complainant is a Lee University student regardless of whether the Respondent is affiliated with the Lee University.
 - b. To Employees:** Where the Respondent is an employee at Lee University at the time of the alleged conduct, the alleged conduct includes Prohibited Conduct under this policy, and does not include Sexual Harassment as defined in the Title IX Policy. Supportive measures and resources will be provided where the Complainant is a Lee University student regardless of whether the Respondent is affiliated with Lee University.
- 1.4 Title IX Coordinator and Key Title IX Officials:** The Title IX Coordinator is the Lee University administrator who oversees Lee University’s compliance with Title IX and Prohibited Conduct under this Policy. The Title IX Coordinator is responsible for administrative response to



reports and Formal Complaints of Sexual Harassment under the Title IX Policy and Prohibited Conduct under this Policy. The Title IX Coordinator is available to discuss the grievance process, coordinate supportive measures, explain Lee University's policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators to facilitate these responsibilities.

Any member of the Lee University community may contact the Title IX Coordinator with questions. Title IX Coordinator and Deputy Title IX Coordinator contact information is as follows:

Brittany Gates, Director of Student Care & Title IX Coordinator

Phone: (423) 473-3817
Email: bgates@leeuniversity.edu
Office: CEN 316-C

Rosie Adams, Director of Student Development, Deputy Title IX Coordinator

Phone: (423) 476-3784
Email: radams@leeuniversity.edu

Tyler Allen, Assistant Director of Campus Security, Deputy Title IX Coordinator

Phone: (423) 303-4444
Email: tallen@leeuniversity.edu

Amy Ballard, Director of Human Resources, Deputy Title IX Coordinator

Phone: (423) 614-8105
Email: aballard@leeuniversity.edu

Matt Brinkman, Director of Campus Security, Deputy Title IX Coordinator

Phone: (423) 303-4444
Email: mbrinkman@leeuniversity.edu

Jessica McIntyre, Assistant Athletic Director of Internal Affairs, Deputy Title IX Coordinator

Phone: (423) 614-8440
Email: jmcintyre@leeuniversity.edu

In addition to the Title IX Coordinator, Lee University appoints investigators, decision makers and informal resolution facilitators who have roles in the grievance process more fully explained in Sections 6 through 8 of this policy.

The Title IX Coordinator, Deputy Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.



- 1.5 Notification:** Lee University will use University electronic mail (email) for purposes of communication and notification under this Policy.
- 1.6 Free Speech:** Freedom of speech and principles of academic freedom are central to the mission of institutions of higher education. Constitutionally protected expression cannot be considered Prohibited Conduct under this Policy.
- 1.7 Dissemination of Policy:** This Policy will be made available to all Lee University administrators, faculty, staff, and students online at www.leeuniversity.edu/titleix/policy and in Lee University student handbook and any employee handbook of operating procedures.
- 1.8 Effective Date:** The effective date of this Policy is September 3, 2020.
- 1.9 Retaliation and False Statements Prohibited:** Neither Lee University nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.
- a. Alleged violations of Retaliation will be referred to the Lee University Student Code of Conduct/Handbook and/or Employee Code of Conduct/Handbook.
 - b. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this Policy.
 - c. Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute Retaliation prohibited under Policy. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.
- 1.10 Amnesty:** Lee University strongly encourages students to report incidents violating the policy related to discrimination, harassment, sexual harassment, and related inappropriate conduct. Lee University's primary concern is the safety of the members of the university community, and it encourages behavior that demonstrates care and concern for members of the community. Accordingly, the university reserves the right to provide a reprieve from disciplinary actions for Complainants and other individuals who exhibit responsible and proactive behavior in reporting sexual harassment, sexual misconduct, sexual violence, or other prohibited conduct or for students acting as a witness during the formal grievance procedures. Lee University may provide referrals to counseling and may require educational options, rather than disciplinary sanctions, in such cases.
- 1.11 Other University Policies:** This Policy takes precedence over other University policies and

procedures concerning Prohibited Conduct other than the Title IX Policy.



1.12 Modification and Review of this Policy: Lee University reserves the right to modify this Policy to take into account applicable legal requirements. Lee University will regularly review this Policy to determine whether modifications should be made.

1.13 Additional Code of Conduct or Lee University Policy Violations: Alleged violations of the student or employee Code of Conduct that arise from the same events as alleged Prohibited Conduct under this Policy, other than alleged violations of the Title IX Policy, will be investigated and resolved under the grievance process in this Policy.

Section 2: Definitions

2.1 Definitions of Prohibited Conduct Under this Policy¹

2.1.1 Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity²; or
- (3) Sexual Assault, Dating Violence, Domestic Violence or Stalking as defined in this Policy.

2.1.2 Sexual Assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including Rape, Fondling, Incest, and Statutory Rape as defined in this Policy.

¹See Section 9 for Tennessee State Laws related to Tennessee State law definitions.

²A severe, pervasive, and objectively offensive assessment includes, but is not limited to, a consideration of the frequency of the offensive conduct, the nature of the unwelcome sexual acts or words, such as whether the harassment was physical, verbal or both; whether the harassment was merely an offensive utterance; and the number of victims involved and the relationship between the parties including, but not limited to, the ages of the harasser and the victim. In evaluating whether conduct is severe, pervasive, and objectively offensive, Lee University will look at the totality of the circumstances, expectations and relationships.



- 2.1.3 Rape³** means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.
- 2.1.4 Fondling⁴** means the touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of his/her age or because of his/her temporary or permanent mental Incapacity.
- 2.1.5 Incest⁵** means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 2.1.6 Statutory Rape⁶** means sexual intercourse with a person who is under the statutory age of Consent.
- 2.1.7 Dating Violence** means violence committed by a person—

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
- The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

³ Rape as defined in the Uniform Crime Reporting Program (UCR) includes:

Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with and Object: —To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

⁴ Fondling is referred to as Forcible Fondling in the UCR.

⁵ Incest is a Nonforcible Offense in the UCR.

⁶ Statutory Rape is a Nonforcible Offense in the UCR.



2.1.8 Domestic Violence⁷ includes felony or misdemeanor crimes of violence committed by:

- a current or former spouse or intimate partner of the victim,
- a person with whom the victim shares a child in common,
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of Tennessee, or
- any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Tennessee.

2.1.9 Stalking means engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to—

- fear for his or her safety or the safety of others; or
- suffer Substantial Emotional Distress.

⁷TCA § 39-13-111 Domestic Assault

A person commits domestic assault who commits an assault as defined in § 39-13-101 against a domestic abuse victim

Domestic abuse victim means any person who falls within the following categories:

- (1) Adults or minors who are current or former spouses;
- (2) Adults or minors who live together or who have lived together;
- (3) Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;
- (4) Adults or minors related by blood or adoption;
- (5) Adults or minors who are related or were formerly related by marriage; or
- (6) Adult or minor children of a person in a relationship that is described in subdivisions (a)(1)-(5).

TCA § 39-13-101 Assault

A person commits assault who:

- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
 - (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
 - (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.
-



2.1.10 Non-Title IX Sexual Harassment: Unwelcome verbal or physical behavior which is directed at an individual based on sex, when these behaviors are sufficiently severe or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment. Examples of conduct that can constitute sexual harassment if based on an individual's sex include but are not limited to:

- Unwelcome jokes or comments (e.g., sexist jokes);
- Disparaging remarks about sex, gender identity, or gender expression (e.g., negative or offensive remarks or jokes about an individual's self-presentation);
- Displaying negative or offensive posters or pictures about sex;
- Electronic communications, such as e-mail, text messaging, and Internet use, that violate this policy.

2.1.11 Sexual Exploitation: Any act whereby one individual violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent. Examples may include, but are not limited to:

- Surreptitiously observing, photographing, audiotaping, videotaping, or recording an image of a person who is engaging in sexual contact, or a person's breasts, buttocks, groin, or genitals, when the person being observed/photographed/audiotaped/videotaped/recorded is in a place in which the person has a reasonable expectation of privacy;
- Allowing or enabling a person to surreptitiously observe, photograph, audiotape, videotape, or record an image of another person who is engaging in sexual contact, or another person's breasts, buttocks, groin, or genitals, when the person being observed/photographed/audiotaped/videotaped/recorded is in a place in which the person has a reasonable expectation of privacy;
- Showing, posting, or sharing video, audio, or an image that depicts a person who is engaging in sexual contact or a person's breasts, buttocks, groin, or genitals, when the person being observed/photographed/audiotaped/videotaped/recorded is in a place in which the person has a reasonable expectation of privacy, if all persons who are depicted have not agreed to having the video/audio/image shown, posted, or shared;
- Prostituting another person or engaging in sex trafficking;
- Knowingly exposing another person to a sexually transmitted infection or disease without informing the other person that one has a sexually transmitted infection or disease;
- Forcing a person to participate in sexual contact with a person other than oneself;



- Forcing a person to expose the person's breasts, buttocks, groin, or genitals;
- Forcing a person to take an action against that person's will by threatening to show, post, or share video, audio, or an image that depicts the person's nudity or depicts the person engaging in sexual contact;
- Forcing a person to take an action of a sexual nature against that person's will by threatening to disclose information that would harm a person's reputation;
- Forcing a person to take an action against that person's will by threatening to disclose information of a sexual or intimate nature that would harm a person's reputation; or
- Causing or requesting an Incapacitated person to expose the person's breasts, buttocks, groin, or genitals or to participate in sexual contact with a person other than oneself.

2.2 Definitions Related to Sexual Harassment: Consent, Course of Conduct, Incapacitation, Reasonable Person, Substantial Emotional Distress

2.2.1 Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person to ensure they have the affirmative Consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of Consent to prior conduct).

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decision-maker will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

- (1) The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- (2) The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively



- Consented; or
- (3) The Respondent knew or a reasonable person should have known that the Complainant was unable to Consent because the Complainant was incapacitated, in that the Complainant was:

- asleep or unconscious
- unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication
- unable to communicate due to a mental or physical condition.

2.2.2 Course of Conduct means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

2.2.3 Force means words and/or conduct that, viewed from the perspective of a Reasonable Person, substantially impair(s) a person's ability to voluntarily choose whether to take an action or participate in an activity. Examples of Force may include, but are not limited to:

- Physical force (e.g., hitting, punching, slapping, kicking, restraining, choking, kidnapping, using a weapon, blocking access to an exit);
- Words and/or conduct that would cause a Reasonable Person to fear;
- Physical force or other harm to the person's health, safety, or property, or a third person's health, safety, or property;
- Loss or impairment of an academic benefit, employment benefit, or money;
- Disclosure of sensitive personal information or information that would harm a person's reputation;
- Disclosure of video, audio, or an image that depicts the person's nudity or depicts the person engaging in sexual contact; or
- Other immediate or future physical, emotional, reputational, financial, or other harm to the person or a third person.

2.2.4 Incapacitation means that a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have control over their body, is unaware that sexual activity is occurring, or their mental, physical or developmental abilities render them incapable of making rational informed decisions. Incapacitated is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.



A person violates this policy when they engage in sexual activity with another person who is Incapacitated and a Reasonable Person in the same situation would have known that the person is Incapacitated. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

2.2.5 Reasonable Person means a reasonable person under similar circumstances and with similar identities to the victim.

2.2.6 Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

2.3 Other Defined Terms

2.3.1 Business Day means any weekday not designated by Lee University as a holiday or administrative closure day. When calculating a time period of Business Days specified in this Policy, the Business Day of the event that triggers a time period is excluded.

2.3.2 Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Complainants and Respondents are referred to collectively as “parties” throughout this Policy.

2.3.3 Confidential Employee means an individual who will not report any information about an incident to the Title IX Coordinator without the Complainant’s permission.

2.3.4 Disciplinary Sanctions are imposed only after a finding of responsibility through the grievance process or an agreement through the informal resolution process.

2.3.5 Education Program or Activity includes locations, events, or circumstances over which Lee University exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs. This includes conduct that occurs on Lee University property, during any Lee University activity, or in any building owned or controlled by a student organization that is officially recognized by Lee University.

2.3.6 Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Lee University investigate the allegation of Sexual Harassment.



2.3.7 Official with Authority means an individual who has the authority to institute corrective measures and is required to report Sexual Harassment to the Title IX Coordinator to initiate Lee University's response to the Sexual Harassment allegations. Officials with Authority include:

- Title IX Coordinator
- Deputy Title IX Coordinators
- Dean of Students
- Director of Residential Life & Housing
- Director of Human Resources
- Vice President for Student Development
- Vice President for Enrollment
- Vice President for Operations
- Vice President for Business and Finance
- Vice President for Information and Marketing
- Vice President for University Relations
- Provost & Vice President for Academic Affairs
- President
- Chancellor

2.3.8 Remedies are designed to restore or preserve equal access to Lee University's Education Program or Activity. Remedies may include, but are not limited to, the same individualized services as Supportive Measures; however, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

2.3.9 Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. Complainants and Respondents are referred to collectively as "parties" throughout this Policy.

2.3.10 Responsible Employee means any individual who is employed by Lee University and not deemed to be a Confidential Employee. Responsible Employees are expected by Lee University to report Prohibited Conduct to the Title IX Coordinator promptly upon receiving a report of Prohibited Conduct.

2.3.11 Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent.

Such measures are designed to restore or preserve equal access to Lee University's Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Lee University's educational environment, or deter Sexual Harassment.



Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Section 3: Reporting Sexual Harassment and Preservation of Evidence

3.1 Reporting to Lee University

3.1.1 Reporting to Title IX Coordinator: Reports of Prohibited Conduct may be made to the Title IX Coordinator in any of the following ways, by anyone, at any time: email, phone, online form, mail. Reports may be made to the Title IX Coordinator in person at the Office of Student Care. After Prohibited Conduct has been reported to the Title IX Coordinator, the Title IX Coordinator will promptly offer supportive measures to the Complainant, regardless of whether the Complainant was the reporter of the Prohibited Conduct.

3.1.2 Reporting to Officials with Authority: The following positions are Officials with Authority:

- Title IX Coordinator
- Deputy Title IX Coordinators
- Dean of Students
- Director of Residential Life & Housing
- Director of Human Resources
- Vice President for Student Development
- Vice President for Enrollment
- Vice President for Operations
- Vice President for Business and Finance
- Vice President for Information and Marketing
- Vice President for University Relations
- Provost & Vice President for Academic Affairs
- President
- Chancellor

If Officials with Authority are notified of Prohibited Conduct they shall promptly report such Sexual Harassment to the Title IX Coordinator who will take immediate action under



this Policy.

3.1.3 Reporting to Confidential Employees: Lee University employees who work in the Health Clinic, Counseling Center, and Campus Ministries are considered Confidential Employees when they are operating under their respective licenses at the time the information was received. Reports made to Confidential Employees under this definition are considered confidential reports and will not be reported to the Title IX Coordinator without the Complainant's permission and will not constitute actual notice to Lee University.

3.1.4 Notification to all other Lee University Employees: Employees who are not defined as Officials with Authority or Confidential Employees are defined as Responsible Employees and are expected to report Prohibited Conduct to the Title IX Coordinator.

3.1.5 Anonymous Reporting: Anonymous reports may be made by telephone, in writing or electronically <https://apps.leeuniversity.edu/titleix/Pages/default.aspx> with the Title IX Coordinator. A decision to remain anonymous, however, may greatly limit Lee University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

3.2 Reporting to Outside Agencies: Students and employees may report to external agencies:

- **Students**

Office for Civil Rights

U.S. Department of Education
61 Forsyth Street S.W. Suite 19T10
Atlanta, GA 30303-8927
Telephone: 404-974-9406
Fax: 404-974-9417
Email: ocr.atlanta@ed.gov

Office for Civil Rights

U.S. Department of Health and Human Services
Sam Nunn Atlanta Federal Center, Suite 16T70
61 Forsyth Street S.W.
Atlanta, GA 30303-8927
Telephone: 1-800-368-1019
Fax 202-619-3818
Email: ocrmail@hhs.gov



- **Employees**

- **U.S. Equal Employment Opportunity Commission**

- 220 Athens Way Suite 350
Nashville, TN 37228-9940
Telephone: 1-800-669-4000
Fax 615-736-2107
Email: info@eeoc.gov

- **Outside Agency Confidential Support and Resources**

- **National Sexual Assault Hotline**

- (800) 656-HOPE (4673) (24-hour hotline)
<https://ohl.rainn.org/online/> (online hotline)

- **Rape Crisis Center**

- 300 East 8th Street
Chattanooga, TN 37403
(423) 755-2700 (24-hour hotline)

- **Erlanger Health System (Hospital)**

- 975 East 3rd Street
Chattanooga, TN 37403
(423) 778-7000

- **Family Resource Agency**

- 3680 Michigan Avenue Road NE
Cleveland, TN 37323
(423) 476-9339 (Main line)
(423) 476-3886 (24-hour hotline for domestic violence)

- **Partnership for Families, Children, and Adults**

- 1800 McCallie Avenue
Chattanooga, TN 37404
(423) 755-2822 (Main Line)
(423) 755-2700 (24-hour hotline)

3.3 Time Limits on Reporting. There are no time limits on reporting Sexual Harassment to the Title IX Coordinator or Lee University. If the Respondent is no longer subject to Lee University's Education Program or Activity or significant time has passed, Lee University will have limited ability to investigate, respond and/or provide disciplinary remedies and sanctions.



3.4 Lee University's Federal Reporting Obligations: Certain Lee University employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify Complainants or Respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations.

When Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking are reported under the Clery Act, Lee University must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Lee University will not disclose a Complainant's name and other identifying information in a timely warning but will provide sufficient information for Lee University community members to make informed safety decisions in response to potential danger.

3.5 Preservation of Evidence: Lee University recognizes that a Complainant may need time to decide whether to report an incident of Sexual Harassment to the police and/or Lee University. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident.

Lee University encourages Complainants, as soon as possible after experiencing Sexual Assault to take steps to preserve evidence such as:

- Have a forensic sexual assault nurse examination performed as soon as possible after the incident, but no later than 72-96 hours after the incident
- When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Preserve or capture electronic communications such as text messages, e-mails, social media posts or exchanges (e.g., Snapchat, Facebook, Twitter);
- Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.



Section 4: Initial Response to Prohibited Conduct

Upon receipt of a report of Prohibited Conduct under this Policy, the Title IX Coordinator will promptly contact the Complainant, regardless of whether the Complainant was the individual who initiated the report. During the initial contact with the Complainant, the Title IX Coordinator will:

- Provide the Complainant with notice of their rights and options, including the right to an advisor and the option to request limited action;
- Explain the Non-Title IX Sexual Misconduct Process;
- Discuss the availability of Supportive Measures;
- Consider the Complainant's wishes with respect to Supportive Measures and limited action.

4.1 Limited Action: When Lee University receives a report of Prohibited Conduct, the Title IX Coordinator will communicate with the Complainant about limited action. If a Complainant declines to respond to outreach by the Title IX Coordinator or does not wish for Lee University to investigate the allegations, Lee University will generally take limited action. When a request for limited action is made, or a Complainant does not respond, the Complainant will still be provided with Supportive Measures. A Complainant may request limited action at any time after a report and prior to a determination regarding responsibility.

There are limited circumstances in which the Title IX Coordinator will continue with an investigation regardless of a Complainant's request for limited action and/or without the Complainant's participation because of Lee University's commitment to providing a safe living, learning and working environment. In determining whether to move forward with an investigation without a Complainant's participation or after limited action has been requested by the Complainant, the Title IX Coordinator will consider factors that include, but are not limited to, the following:

- Whether there have been other reports of Prohibited Conduct or other relevant misconduct concerning the same Respondent whether or not the incidents occurred while the Respondent was a Lee University student or employee;
- Whether the Respondent threatened further Prohibited Conduct or other misconduct against the Complainant or others;
- Whether the alleged Prohibited Conduct was committed by multiple perpetrators;
- The nature and scope of the alleged Prohibited Conduct including whether the Sexual Harassment was perpetrated with a weapon;
- The ages and roles of the Complainant and the Respondent;
- Whether Lee University can pursue the investigation without the participation of the Complainant (e.g., whether there are other available means to obtain relevant evidence of the alleged Prohibited Conduct such as security cameras or physical evidence);



- Whether the report reveals a pattern of perpetration (e.g., perpetration involving illicit use of drugs or alcohol) at a given location or by a particular group.

Section 5: Investigation and Resolution Process

Lee University is committed to providing a prompt and impartial investigation and resolution of alleged violations of this Policy.

5.1 Notice of Allegations: The Respondent and Complainant will be provided with a Notice of Allegations prior to the initiation of an investigation under this Policy. The Notice of Allegations will include:

- (1) Notice of the party's rights and options
- (2) Notice of the Non-Title IX Policy
- (3) Notice of Lee University's informal resolution process and options
- (4) Notice of the allegations of Prohibited Conduct including:
 - The identities of the parties involved in the incident, if known,
 - The conduct allegedly constituting Prohibited Conduct, and
 - The date and location of the incident, if known.
- (5) Notice that the Respondent is presumed not responsible
- (6) Notice that the parties may have an advisor of their choice
- (7) Notice of the Lee University Code of Conduct provision that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Notice of Allegations will be updated and written notice provided to the parties if, at any time during the investigation, Lee University decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Allegations.

5.2 Investigation: During the investigation, both parties have equal rights to participate, present information, and provide the names of witnesses to be interviewed. The witnesses are limited to fact witnesses. Following the investigation, the parties will be provided with an investigative report that summarizes the investigation.

5.3 Hearing: At the conclusion of the investigation, the Title IX Coordinator will appoint a decision-maker who will oversee the hearing and make a determination based on the preponderance of the evidence standard whether the Respondent violated this Policy.



- 5.4 Agreement of the Parties:** If, at any time during or after the investigation, prior to the determination of responsibility by the decision-maker, the Respondent accepts responsibility for the allegations, the Title IX Coordinator may recommend appropriate sanctions. If the Respondent accepts the recommended sanctions and the sanctions are agreed to by the Complainant, the matter shall be resolved by agreement. This will be considered a form of informal resolution (See section 7) under this Policy.
- 5.5 Notice of Hearing:** After the investigative report has been completed and at least ten (10) business days prior to the date set for the hearing, the parties will be provided with a Notice of the Hearing which will include date, time, and location of the hearing.
- 5.6 Challenge to Decision-Maker:** Either party may challenge the appointment of a decision-maker, based on conflict of interest or bias, in writing to the Title IX Coordinator, no less than five (5) Business Days prior to the scheduled hearing.
- 5.7 Hearing Process:** At the request of either party, or at the discretion of the Title IX Coordinator, Lee University will provide for the hearing to occur with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the other party or witness answering questions. The parties will have the opportunity to present information and ask questions of the other party and witnesses. However, the parties must ask the questions in writing through the decision-maker who will determine whether the questions are relevant. Questions shall not be asked directly by a party or advisor to the other party or witnesses.
- 5.8 Recording of the Hearing:** Lee University will create an audio or audiovisual recording of all hearings and make the recording available to the parties for inspection or review.
- 5.9 Determination Regarding Responsibility:** After the hearing, the decision-maker will deliberate privately. The decision-maker will issue a written determination to the Complainant and Respondent simultaneously. The determination regarding responsibility becomes final either on the date that Lee University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely. The written notice will include:
- Identification of the allegations potentially constituting Prohibited Conduct;
 - A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions that Lee University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to Lee University's education program or activity will be provided by Lee University to the Complainant; and
 - The procedures and permissible bases for the Complainant and Respondent to appeal.



Section 6: Appeals

Either party may appeal the determination regarding responsibility within three (3) Business Days of the receipt of the determination regarding responsibility. The appeals must be made in writing and delivered to the Title IX Coordinator.

6.1 Bases for Appeal: Appeals of the determination of responsibility may be made on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Section 7: Informal Resolution Process

At any time after a report of Prohibited Conduct under this Policy and with the agreement of the Title IX Coordinator, parties may voluntarily agree to resolve the allegations through an information resolution facilitated by Lee University that does not involve a full investigation and adjudication. In order to resolve the allegations through an informal resolution, the parties must provide voluntary, written agreement to the informal resolution process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process. Agreed resolutions through the informal resolution process cannot be appealed. Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, and restorative justice and resolution by agreement of the parties.

Section 8: Emergency Removal and Administrative Leave

8.1 Emergency Removal at any time after the Title IX Coordinator is on notice of Prohibited Conduct, Lee University may remove a Respondent on an emergency basis. Lee University will only conduct an emergency removal after:



- (1) Undertaking and individualized safety and risk analysis,
- (2) Determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal, and
- (3) Providing the Respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, within two (2) Business Days following the removal.

8.2 Administrative Leave: Lee University may place a non-student employee Respondent on administrative leave during the pendency of the process outlined in this Policy.

Section 9: Applicable Tennessee Laws

9.1 Domestic Assault: TCA § 39-13-111 A person commits domestic assault who commits an assault as defined in TCA § 39-13-101 against a domestic abuse victim.

Domestic abuse victim is defined as:

- (1) Adults or minors who are current or former spouses;
- (2) Adults or minors who live together or who have lived together;
- (3) Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;
- (4) Adults or minors related by blood or adoption;
- (5) Adults or minors who are related or were formerly related by marriage; or
- (6) Adult or minor children of a person in a relationship that is described in subdivisions (a)(1)-(5)

Assault: TCA § 39-13-101(a) A person commits assault who:

- (1) Intentionally, knowingly or recklessly causes bodily injury to another;
- (2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
- (3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.



9.2 Incest: TCA § 39-15-302 A person commits incest who engages in sexual penetration as defined in § 39-13-501, with a person, knowing the person to be, without regard to legitimacy:

- (1) The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or
- (2) The person's brother or sister of the whole or half-blood or by adoption.

"Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required.

9.3 Statutory Rape: TCA § 39-13-506

- (a) Mitigated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is at least four (4) but not more than five (5) years older than the victim.
- (b) Statutory rape is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:
 - (1) The victim is at least thirteen (13) but less than fifteen (15) years of age and the defendant is at least four (4) years but less than ten (10) years older than the victim; or
 - (2) The victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is more than five (5) but less than ten (10) years older than the victim.
- (c) Aggravated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least thirteen (13) but less than eighteen (18) years of age and the defendant is at least ten (10) years older than the victim.

9.4 Fondling/Sexual Contact: TCA § 39-13-509

- (a) It is an offense for a defendant to engage in unlawful sexual contact with a minor when:
 - (1) The minor is at least thirteen (13) but less than eighteen (18) years of age;
 - (2) The defendant is at least four (4) years older than the victim; and



- (3) The defendant was, at the time of the offense, in a position of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional, or occupational status and used the position of trust or power to accomplish the sexual contact; or
 - (4) The defendant had, at the time of the offense, parental or custodial authority over the minor and used the authority to accomplish the sexual contact.
- (b) As used in this section, "sexual contact" means the defendant intentionally touches or kisses the minor's lips with the defendant's lips if such touching can be reasonably construed as being for the purpose of sexual arousal or gratification.

9.5 Rape: TCA § 39-13-503

- (a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:
- (1) Force or coercion is used to accomplish the act;
 - (2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;
 - (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
 - (4) The sexual penetration is accomplished by fraud.

"Coercion" means:

- (a) Causing or threatening to cause bodily harm to any person, physically restraining or confining any person or threatening to physically restrain or confine any person;
- (b) Exposing or threatening to expose any fact or information that, if revealed, would tend to subject a person to criminal or immigration proceedings, hatred, contempt or ridicule;
- (c) Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of any person; or
- (d) Providing a controlled substance, as defined in § 39-17-402 , or a controlled substance analogue, as defined in § 39-17-454 , to a person;